

allow the Account to exchange the Pine Knoll Shores Lot for Parcel One. Although Parcel One does not officially exist at this time, it will be excised from a 20.9718 acre tract of land which is owned by Dr. and Mrs. Edwards and constitutes their homeplace. The subject property will occupy the southwest corner formed by the intersection of Brassfield Road and Cahill Road in Barton's Creek Township, Wake County, North Carolina and consist of approximately 4.017 acres of land. Further, Mrs. Edwards will, by quitclaim deed to Dr. Edwards, release her undivided interest in Parcel One. Following the exchange, Parcel One will constitute approximately 19 percent of the assets of the Account.

8. Currently, boundary lines have been established to form Parcel One by Mr. Ronald Thomas, an independent appraiser who is affiliated with the real estate appraisal firm of Worthy & Wachtel Inc. of Raleigh, North Carolina. In an appraisal report dated December 29, 2002, Mr. Thomas, using the sales comparison approach to valuation, placed the fair market value of Parcel One at \$408,000 as of December 17, 2002. Mr. Thomas also determined that the "highest and best use" of Parcel One is for single family residential development as four building lots, each consisting of one acre.

9. Once formed and duly recorded with the Wake County Register of Deeds, Parcel One will be transferred by Dr. Edwards to his Account. Simultaneously with the exchange, the Plan trustees will transfer the Pine Knoll Shores Lot to Dr. Edwards. The Account will not pay any real estate fees or commissions in connection with the transaction. In addition, the Account will receive real property having an independently appraised fair market value that is equal to the fair market value of the Pine Knoll Shores Lot on the day of the exchange. For this purpose, the appraisers will update their appraisals just prior to or on the date of the transaction.

10. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The exchange of the Pine Knoll Shores Lot by the Account to Dr. and Mrs. Edwards for Parcel One will be a one-time transaction.

(b) The fair market values of the Pine Knoll Shores Lot and Parcel One will be determined by qualified, independent appraisers.

(c) For purposes of the exchange, Parcel One will have a fair market value that will be no less than the fair market

value of the Pine Knoll Shores Lot at the time the transaction is consummated.

(d) The terms and conditions of the exchange will be at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party.

(e) The exchange will not involve more than 25 percent of the Account's assets.

(f) The exchange will allow the Account to divest itself of property that is susceptible to hurricane damage and high maintenance costs, and it will permit the Account to acquire virtually maintenance-proof property having increased liquidity.

(g) Dr. Edwards is the only participant in the Plan whose Account will be affected by the transaction and he desires that such transaction be consummated.

Notice to Interested Persons

Because Dr. Edwards is the only participant in the Plan whose Account will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Therefore, comments and requests for a hearing are due 30 days after publication of the notice of pendency in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksonji, telephone (202) 693-8567. (This is not a toll-free number.)

Valley OB-GYN Clinic P.C. Employees Pension Plan (the Plan), Located in Saginaw, Michigan

[Application No. D-11172]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan of \$550,000 by the Plan to Valley OB-GYN Realty Company (the Company), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

a. The Loan does not exceed 25% of the total assets of the Plan at any time;

b. The terms of the Loan are at least as favorable to the Plan as those terms which would exist in an arm's-length transaction with an unrelated party;

c. The Loan is secured by a building which has a fair market value, as determined by an independent, qualified appraiser, of at least 150% of the outstanding principal balance of the Loan (plus accrued but unpaid interest) throughout its duration (unless other property is pledged as collateral, as noted below in condition f.);

d. An independent, qualified fiduciary (the Independent Fiduciary) reviews the proposed terms and conditions of the Loan, and determines that the Loan is in the best interest and protective of the Plan and its participants and beneficiaries;

e. The Independent Fiduciary monitors the Loan throughout its duration and takes whatever actions are necessary to safeguard the interests of the Plan and its participants and beneficiaries; and

f. The Plan has the right, under the terms of the Loan and mortgage note related thereto, to require the Company to pledge additional property as collateral for the Loan, in the event such property is needed to maintain full collateralization at the amount specified herein.

Summary of Facts and Representations

1. The Plan is a qualified retirement plan sponsored by Valley OB-GYN Clinic, P.C. (the Employer). The trustees of the Plan are Ronald C. Hazen, M.D., James R. Hines, M.D., and Duane B. Heilbronn, Jr., M.D. (the Trustees). Duane B. Heilbronn acts as the Plan's administrator. As of December 31, 2001, the Plan had approximately 42 participants and \$7,702,976 in total assets.

2. The sponsor of the Plan is the Employer, a Michigan professional services corporation owned in equal shares by Ronald C. Hazen, M.D., James R. Hines, M.D., Duane B. Heilbronn, Jr., M.D., John Llewellyn, M.D. and Kenneth Su, M.D. The Employer is a medical practice.

3. The Loan will have a principal amount of \$550,000, and a ten (10) year duration. The Loan will bear an interest rate of 9% per annum. The promissory note evidencing the Loan (the Note) requires monthly payments of principal and interest in the amount of \$6,967 (or more) to be made on or before the 1st of each month. The Note requires monthly payments of principal and interest amortized over the entire ten (10) year duration of the Loan. The Note further provides that if any default should be made in the payment of any installment of principal and interest due thereunder, and should the Company fail to cure such default within thirty (30) days after delivery of written notice